

# Notice of Allowability

Application No.

09/891,526

Examiner

Patricia A Patten

Applicant(s)

CROSBY ET AL.

Art Unit

1654

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 11/5/2003.
2. ☒ The allowed claim(s) is/are 3,5,13-20,25,27,31-33 and 35-37.
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- \* Certified copies not received: \_\_\_\_\_.
5. ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
  - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No. \_\_\_\_\_.
  - (b) ☐ including changes required by the proposed drawing correction filed \_\_\_\_\_, which has been approved by the Examiner.
  - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the margin according to 37 CFR 1.121(d).

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

- |   |  |
|---|--|
| 1 <input type="checkbox"/> Notice of References Cited (PTO-892)   | 5 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)         |
| 2 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 6 <input checked="" type="checkbox"/> Interview Summary (PTO-413), Paper No. _____ |
| 3 <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No. _____ <i>page 2 of 1449 received 4/2002</i> | 7 <input checked="" type="checkbox"/> Examiner's Amendment/Comment                 |
| 4 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material   | 8 <input type="checkbox"/> Examiner's Statement of Reasons for Allowance           |
|   | 9 <input type="checkbox"/> Other   |

### **DETAILED ACTION**

Claims 3, 5, 13-20, 25-27 and 31-36 are pending in the application. The Amendment After final filed 11/05/2003 was entered and considered on the merits. The Declaration submitted under 1.132 on 10/14/03 was reconsidered in light of Applicants arguments and found persuasive.

### **EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Attorney Richard Lebovitz on 11/21/03.

### **IN THE ABSTRACT:**

Replace the Abstract with:

-- The present invention relates to compositions and methods for enhancement of sexual pleasure and disorders related to sexual pleasure especially in mammalian females. The present invention relates to all aspects of modulating the female sexual response, including female sexual dysfunction such as female sexual arousal disorders (FSAD), orgasmic disorders, sexual pain disorders and enhancing female sexual pleasure and satisfaction. The present invention relates to compositions comprising botanical extracts and active agents which are useful to treat or affect any of the aforementioned conditions. The present invention relates to a composition, preferably for topical or local use, which comprises one or more of the following ingredients; including, but not limited to, borage seed oil, Angelica pubescens root and other Angelica species, Coleus forskohlii extract, vinpocetine, ferulic acid, magnesium, ascorbyl palmitate, capric triglyceride, caprylic triglyceride, silica and equivalents thereof. --.

IN THE SPECIFICATION:

Page 3, line 10, after 'garden' replace 'angelica' with – Angelica --.

Page 8, line 11, replace 'ginkgo' with – Ginkgo --.

Page 8, line 21, replace 'Polysorb' with – POLYSORB – (all caps).

Page 10, line 9, replace 'lavendar' with – lavender --.

Page 10, line 14, replace 'vitamine' with – vitamin --.

IN THE CLAIMS:

Cancel claims 26 and 34.

Insert the following new claim:

-- 37. The topical composition of claim 35 wherein said Angelica is Angelica archangelica, Angelica sinensis, Angelica sylvestris, Angelica officinalis, Angelica acutiloba, Angelica pubescens, Angelica archangel, European Angelica or garden Angelica. --.

Claim 3, line 3, replace 'd)' with – (e) --.

Claim 5, before each instance of 'borage', Angelica' and 'Coleus' insert -- said --.

Claim 14, line 2 after 'magnesium' replace 'and its salts' with – or salts thereof--.

On line 3, after 'vitamin E acetate' delete 'or salts thereof' and after 'ascorbyl palmitate' delete 'or salts thereof'.

Claim 15, line 3, after 'enhancers', insert – wherein said weight percentages are based on the total weight of the composition --.

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Claims 16-20 and 25, on the last line of each respective claim; before 'composition' replace 'a' with – the --.

Claim 27, line 2, after the first instance of Angelica, delete the term 'root'.

Claim 33 replace 'at least' with – about --.

Claim 36, line 1, replace 'A method' with – The composition --.

Claims 3, 5, 13-20, 25, 27, 31-33 and 35-37 are allowed.

It is noted that the IDS submitted 4/2002 was fully considered, and a copy of the 1449 was sent to Applicants. The Examiner inadvertently did not initial some of the references. A copy of the page from the 1449 form (page 2 of 4) received on April 5, 2002 is fully initialed and attached hereto.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia A Patten whose telephone number is (703) 308-1189. The examiner can normally be reached on 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brenda Brumback can be reached on (703) 306-3220. The fax phone

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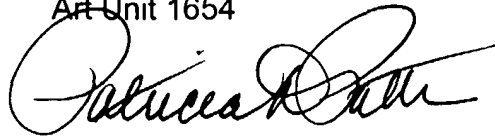
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number for the organization where this application or proceeding is assigned is (703) 872-3906.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

11/21/03

Patricia A Patten  
Examiner  
Art Unit 1654

A handwritten signature in black ink, appearing to read "Patricia A. Patten", written in a cursive style.

**PATRICIA PATTEAN  
PATENT EXAMINER**